

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY	
Caption in compliance with D.N.J. LBR 9004-1 E. RICHARD DRESSEL, ESQ. (ED1793) LEX NOVA LAW LLC 10 E. Stow Road, Suite 250 Marlton, NJ 08053 rdressel@lexnovallaw.com (856) 382 - 8211 Attorneys for Andrew Sklar, Chapter 7 Trustee	Case No.: 22-19628(ABA) Chapter: <u>7</u>
In Re: ORBIT ENERGY & POWER, LLC, Debtor.	Judge: <u>Andrew B. Altenburg</u> Hearing Date: March 19, 2024 at 10:00 a.m.

**ORDER APPROVING (A) THE PUBLIC AUCTION SALE OF CERTAIN
OF THE DEBTOR'S VEHICLES FREE AND CLEAR OF LIENS,
CLAIMS, ENCUMBRANCES AND INTERESTS PURSUANT TO
11 U.S.C. § 363(b) AND (f) AND FEDERAL RULE OF
BANKRUPTCY PROCEDURE 6004 AND (B) PRODECURES
GOVERNING THE PUBLIC AUCTION SALE**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby
ORDERED.

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PROCEDURES GOVERNING THE PUBLIC AUCTION SALE**

THIS MATTER, having come before the Court upon the motion (the "Motion") of Andrew Sklar (the "Trustee"), Chapter 7 trustee of the above debtor (the "Debtor"), for approval of (a) the public auction sale of certain of the Debtor's Vehicles pursuant to 11 U.S. C. §363(b) and (f); and (b) proposed auction procedures (the "Auction Procedures") pursuant to D.N.J. LBR 6004-2, and for good cause shown, it is hereby

ORDERED as follows:

1. The terms of the proposed public Auction sale of the Vehicles (capitalized terms shall have the same meaning as set forth in the Motion unless otherwise specified herein) are hereby approved. The Trustee is authorized to proceed with the public Auction sale of the Vehicles and to consummate one or more sales with the successful bidder(s) in accordance with the terms of the Auction Procedures and this Order.

2. The transfer of Vehicles to the successful bidder(s) shall be free and clear of all liens, claims, encumbrances and interests (collectively, "Liens and Encumbrances") pursuant to 11 U.S.C. § 363(b) and (f). Liens and Encumbrances shall attach to the proceeds of the sale with the same validity, priority, and effect that existed immediately prior to consummation of the sale and subject to any and all rights, claims, and defenses that the Trustee or the Debtor have or may assert with respect thereto. For purposes of clarity, all Liens and Encumbrances shall attach exclusively to the proceeds of the Auction sale of each of the Vehicles to pay the respective Lienholders in full (net the costs of the Auction of the Vehicles, and the payment of the Auctioneer as set forth in the Motion).

3. The Vehicles shall be sold "AS IS" and "WHERE IS" without any express or

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implied warranty, covenant, guarantee, or representation of any kind.

4. The Trustee is hereby granted full authority and authorized and directed to execute, acknowledge, and deliver such certificates, assignments, conveyances, bills of sale, and other instruments of transfer, and to take such other actions reasonably as are necessary or appropriate to transfer title to the Vehicles.

5. The fourteen (14) day stay set forth in Fed. R. Bankr. P. 6004(h) is hereby waived, and the Auction sale may proceed upon entry of this Order.

6. The terms and provisions of this Order shall be binding and enforceable in all respects upon and shall inure to the benefit of the Trustee, the Debtor, creditors, the successful bidder(s), and their respective affiliates, successors, heirs, trustees, administrators, and assigns, and any affected third parties, including but not limited to any and all entities asserting any claim or interest in the Vehicles or the Debtor's estate.

7. The Auction procedures are hereby approved as follows:

- a. The Vehicles will be sold by the Auctioneer in one or more lots in the discretion of the Trustee, in consultation with the Auctioneer.
- b. Notice of the Auction will be given to all creditors in the Debtor's Chapter 7 case, together with those persons or entities which submitted offers or expressions of interest for all or any portion of the Vehicles, and such additional parties (including direct and indirect competitors of the Debtor) as the Auctioneer deems appropriate.
- c. The Auction will be conducted as a public auction at a location on a date and

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time and on-line as determined by the Auctioneer so as to afford participants
an opportunity to submit their best and final bids until, in the reasonable
discretion of the Auctioneer, the bidding has concluded for each Vehicle.

- d. Unless otherwise agreed between the Trustee and a successful bidder, each
successful bidder shall have up to three (3) business days from the later of the
conclusion of the Auction or the satisfaction of any liens against each Vehicle,
as so-designated on the title, to each Vehicle to tender cash, money order or
certified funds in the amount of the successful bid.
- e. The Vehicles shall be sold “as is – where is” with no representations or
warranties of any kind, including, without limitation, the suitability of any
Asset for a particular use.
- f. All sales will be considered final upon the delivery of the applicable purchase
price.
- g. The Auctioneer, in consultation with the Trustee, shall have discretion to
determine whether a Bulk Bid is higher and/or better in relation to multiple
bids for individual Vehicles.
- h. Bidders may, but shall not be required to, submit Bulk Bids at the Auction.
- i. All proceeds resulting from the Auction shall be maintained by the Trustee
pending the entry of an Order of this Court approving the Auctioneer’s
expenses and costs.

Except, however, the Auctioneer shall be permitted to retain the Buyer’s

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Premium as set forth in the Retention Application without further Order of this
Court.

- j. The Vehicles shall be conveyed to a successful bidder free and clear of Liens
and Encumbrances.
- k. The Trustee shall execute and deliver bills of sale and transfer titles to
successful bidders in form and substance acceptable to the Trustee and his
counsel.
- l. The Trustee and his professionals will use reasonable diligence to determine
whether a bidder is an insider or affiliate of the Debtor (or any affiliate of the
Debtor) and will advise the Court, the Office of the United States Trustee and
interested parties of any successful bid involving an insider or affiliate.
- m. In the absence of any insider or affiliate status, a successful bidder will be
deemed to be a good faith purchaser entitled to the protections of §363(m) of
the Bankruptcy Code upon the consummation of a sale.